

Prep for Ed's Mississippi Crop Tour - August 30- September 2

In preparation for Ed's participation in the Mississippi Crop Tour, he's requesting information on important state-specific issues for the topics below. The major state crops are Corn, Soy, Cotton, Rice. General updates were added for some of the topics. Please add any state-specific information and updates for the topics highlighted red at the end of the document.

Please provide updates by Monday, August 29th. Thanks!

ESA

- Implement newly issued ESA-FIFRA Workplan
- ESA implemented as part of registration and registration review consistent with Long-term Performance Goals in the FY2022-2026 Strategic Plan
- Implement Biological Opinions received from the Services, including Malathion and the salmonids
- Complete Biological Evaluations and/or Effects Determinations in accordance with Litigation Settlement Schedule
- On January 11, 2022, EPA announced Endangered Species Act Protection Policy for New Pesticides
- Policy will advance protection of federally listed threatened or endangered species before registering new conventional pesticide active ingredients
- Prior to registering any new conventional active ingredient (AI), EPA will:
 - evaluate the potential effects of the AI on federally threatened or endangered (listed) species and their designated critical habitats
 - initiate ESA consultation with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service (the Services), as appropriate
- Any state-specific information?
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Sulfoxaflor

- On July 19th, EPA released its draft biological evaluation (BE) for the insecticide sulfoxaflor.
- This BE contains EPA's analysis of the potential effects of sulfoxaflor on federally listed endangered and threatened (listed) species and designated critical habitats.

- The draft BE will be available for comment for 60 days in docket [[HYPERLINK "https://www.regulations.gov/docket/EPA-HQ-OPP-2010-0889"](https://www.regulations.gov/docket/EPA-HQ-OPP-2010-0889)].
- This evaluation is part of EPA's efforts to meet its obligations under the Endangered Species Act (ESA).
 - This work furthers the goals outlined in [[HYPERLINK "https://www.epa.gov/endangered-species/epas-workplan-and-progress-toward-better-protections-endangered-species"](https://www.epa.gov/endangered-species/epas-workplan-and-progress-toward-better-protections-endangered-species)] to provide practical protections from pesticides for listed species.
- As part of its assessment, EPA evaluated the effects of sulfoxaflor on over 1,700 listed species and over 800 designated critical habitats in the United States.
- The draft BE finds that sulfoxaflor is likely to adversely affect certain listed species and designated critical habitats.
 - The [[HYPERLINK "https://www.epa.gov/endangered-species/assessing-pesticides-under-endangered-species-act"](https://www.epa.gov/endangered-species/assessing-pesticides-under-endangered-species-act)] means that EPA reasonably expects that at least one individual animal or plant, among a variety of listed species, may be exposed to sulfoxaflor at a sufficient level to have an adverse effect.
 - This is the case even if a species is almost recovered to a point where it may no longer need to be listed.
- In this BE, EPA also predicted the likelihood that sulfoxaflor use could lead to jeopardy for certain listed species or adverse modification of designated critical habitats.
- EPA determined that sulfoxaflor:
 - Will cause no effect to 35 percent of listed species and 52 percent of critical habitats;
 - May affect but is not likely to adversely affect 31 percent of listed species and 35 percent of critical habitats;
 - Is likely to adversely affect but EPA predicts the likelihood that use will not:
 - Cause jeopardy to 27 percent of listed species
 - Adversely modify 9 percent of critical habitats; and
 - Is likely to adversely affect and EPA predicts the likelihood that use may:
 - Cause jeopardy to 7 percent of listed species
 - Adversely modify 4 percent of critical habitats.

- EPA has begun discussions with the registrant to determine what additional mitigation measures could be implemented in the near term to further protect listed species and critical habitats.
- The registrant recently proposed additional amendments to sulfoxaflor product labels that include certain mitigation measures. EPA may consider mitigations in addition to those proposed by the registrant, such as adding or increasing buffers, imposing geographical use limits, or incorporating additional methods to reduce pesticide drift.
- EPA encourages public comments on the proposed label amendments and other mitigation measures that may be appropriate.
- After considering public comments on the draft BE and any additional mitigations that are agreed upon with the sulfoxaflor registrant, EPA will issue a final BE.
- Any state-specific information?
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Dicamba

- On December 21, 2021, EPA provided a summary of dicamba-related incident reports from the 2021 growing season obtained from pesticide registrants, States, the general public, and non-governmental organizations.
- EPA received approximately 3,500 dicamba-related incident reports for the 2021 growing season. These incident reports indicate four major findings:
 - More than one million acres of non-dicamba-tolerant soybean crops were allegedly damaged by off-target movement of dicamba;
 - A range of non-target agricultural crops were allegedly affected by dicamba, such as sugarbeets, rice, sweet potatoes, peanuts, and grapes;
 - Dicamba allegedly damaged non-agricultural plants and trees, such as those that grow near homes and in wild areas, including a 160,000-acre wildlife refuge; and
 - More than 280 incident reports came from counties where additional restrictions are required to protect endangered species when dicamba is applied to dicamba-tolerant soybean and cotton crops.
- Based on prior research and numerous stakeholder meetings, EPA has reason to believe the number of incidents reported significantly understates the actual number of incidents related to dicamba use.
- Given the new information from the 2021 growing season, EPA is reviewing whether over-the-top dicamba can be used in a manner that does not pose unreasonable risks to non-target crops, other plants, or listed species and their designated critical habitats.

- The regulatory tools that the Agency could use to address the extent and severity of the alleged dicamba-related incidents are unlikely to be fully implemented by the 2022 growing season due to the statutory processes the Agency is required to follow.
- On May 16, 2022, EPA filed a report on the status of its ongoing evaluation of options for addressing future dicamba-related incidents relevant to any potential regulatory action related to the 2020 dicamba registrations.
- In the Court required report, EPA explained that it:
 - implemented state-specific restrictions in certain states
 - remains committed to working with states interested in addressing issues related to incidents in their jurisdictions
- For example, following registrant requests to amend their labeling in partnership with Iowa and Minnesota, the Agency implemented restrictions intended to reduce likelihood of volatility and offsite movement of over-the-top dicamba in those states.
- For the 2023 growing season and beyond, EPA will continue to review whether over-the-top dicamba can be used in a manner that does not pose unreasonable risks to non-target crops and other plants, or to listed species and their designated critical habitats.
- EPA is commitment to evaluating the regulatory tools that it could use to address dicamba-related incidents and communicating with over-the-top dicamba registrants to discuss their proposals for addressing dicamba incidents.
- On March 18, 2022, EPA received a request from Registrant Bayer to amend the 2020 registration for Bayer's XtendiMax product.
- Currently, EPA is collecting information on the 2022 growing season from various stakeholders including state regulators, academics, and registrants. Information from stakeholders will continue to be important to EPA's decisions moving forward.
- In particular, EPA has been in regular communication with the Association of American Pesticide Control Officials and extension weed specialists who have been active on the dicamba issues.
- Registration review has been initiated for dicamba.
- Registration review considers all current dicamba registrations, not just those from the 2020 registration decision.
- The draft risk assessment published on August 18th and posted for a 60-day public comment period on regulations.gov.
- Any state-specific information?
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Enlist

- On January 11, 2022, EPA issued seven-year registrations for Enlist Duo and Enlist One, herbicides used to control weeds in conventional and genetically-modified corn, cotton, and soybean crops.
- The new product labels, which incorporate robust control measures to protect non-target plants and animals, meet FIFRA standards and comply with the ESA.
- Both products were set to expire in January 2022 if the Agency did not renew their product registrations.
- Based on EPA's thorough analysis of scientific data, evaluation of cost-benefit information, and discussions with industry stakeholders, the Agency has determined that Enlist products meet the standard for registration under FIFRA as well as comply with the ESA.
- On March 29, 2022, EPA approved the use of Enlist One and Enlist Duo in 134 additional counties.
- Enlist One and Enlist Duo can now be used in all counties of Arkansas, Kansas, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, and South Dakota.
- In Texas, Enlist products can now be used in Bowie, Cooke, Fannin, Grayson, Lamar, and Red River counties.
- Any state-specific information?
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Atrazine

- On June 30, EPA released proposed revisions to the Agency's September 2020 atrazine interim decision (ID) for public comment.
- The ID in the registration review process allows EPA to begin implementing measures to mitigate risks of concern before a final decision is issued.
- EPA is now proposing additional mitigation to protect aquatic plant communities.
- EPA is proposing the following measures for all atrazine labels in order to decrease atrazine runoff from treated fields:
 - Prohibit application when soils are saturated or above field capacity (i.e., the soil's ability to retain water);

- Prohibit application during rain or when a storm event, likely to produce runoff from the treated area, is forecasted to occur within 48 hours following application;
- Prohibit aerial applications of all formulations; and
- Restrict annual application rates to 2 pounds of active ingredient or less per acre per year or less for applications to sorghum, field corn, and sweet corn.
- EPA is also proposing to add a “picklist” to labels that would require growers to select a combination of application rate reductions and/or runoff control measures when using atrazine in watersheds with atrazine concentrations that exceed the CE-LOC of 3.4 µg/L.
- The number of runoff control practices from the picklist that a grower would be required to implement depends on the:
 - estimated atrazine concentration in the watershed where the field is located and that watershed’s vulnerability to atrazine runoff, as well as the grower’s selected application rate.
- The higher the application rate and the higher the estimated atrazine concentration in the watershed, the greater the number of mitigation practices that may be necessary.
- The picklist approach provides growers with the flexibility to select the runoff control practices that would be least burdensome to adopt.
- The practices a grower selects may depend on a variety of factors including crop, geographic region, and field topography.
- The picklist mitigation requirements are tailored geographically, down to the watershed level, in order to focus the mitigation on the areas with the greatest risk and vulnerability.
- The public comment period is now open for the Proposed Revisions to the Atrazine Interim Registration Review Decision in the atrazine registration review docket at [regulations.gov](https://www.regulations.gov).
 - Public comments will be accepted for 60 days upon publication of the Federal Register notice.
- EPA also intends to seek external peer review of the risks to the aquatic plant community that underlies this proposed risk management strategy:
 - This is in line with the Agency’s commitment to science and scientific integrity, and will incorporate the feedback it receives into its final revisions to the ID.
- Any state-specific information?
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Diuron

- The [HYPERLINK "<https://www.regulations.gov/document/EPA-HQ-OPP-2015-0077-0044>" \t "_blank"] identified potential cancer risks from:
- Food exposure and drinking water exposure (from all conventional herbicide uses) and from residential handler painting exposure (from exterior paint uses).
- Food and residential painting exposure are each nearly of concern on their own while drinking water exposure presents risks of concern on its own.
- In the Proposed Interim Decision (PID), EPA proposed termination of nearly all conventional uses (including all food/feed uses and conventional herbicide uses) to resolve dietary risks of concern.
- EPA considered conventional use rate reductions or use restrictions (*e.g.*, spot treatments) to resolve dietary risks, but the resulting use patterns would not be efficacious for users.
- EPA has proposed rate reductions for all paints and building material products to mitigate aggregate risks of concern.
- The public comment period on the PID ended July 27, 2022. EPA will fully review and consider public comments before issuing its Interim Decision.
- Any state-specific information?
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Chlorpyrifos – (including rice weevil in grain)/ - (include update and any state-specific information)

- In August 2021, EPA issued the final rule revoking all “tolerances” for chlorpyrifos, which establish an amount of a pesticide that is allowed on food.
- The rule was issued in response to the Ninth Circuit’s order directing EPA to issue a final rule in response to the 2007 petition filed by Pesticide Action Network North America and the Natural Resources Defense Council.
- After issuing the August 2021 final rule, EPA provided an opportunity for any person to file an objection to any aspect of the final rule and request a hearing on those objections.
 - The deadline for all objections and hearing requests was October 29, 2021.
- On February 25, 2022, EPA announced the denial of all objections, hearing requests, and requests to stay the final rule filed during the period for submitting responses to the final rule.
- On February 28, 2022, all chlorpyrifos tolerances expired. Also on that same day, EPA published the denial of all objections to its August 2021 rule. At this time, using chlorpyrifos on food and feed crops after this date will result in adulterated food, which cannot legally be shipped in interstate commerce.

- In March 2022, the 8th Circuit Court denied a motion to stay the tolerance rule and dismissed a petition seeking review of the chlorpyrifos final rule revoking tolerances for lack of jurisdiction. Two other petitions challenging EPA’s final rule and order denying objections were consolidated into a single action, which remains pending before the 8th Circuit Court.
- On July 22, EPA filed a brief in an 8th Circuit case, challenging the Agency’s August 2021 final rule revoking all tolerances for chlorpyrifos and its February 2022 order denying objections to the final rule and requests to stay the final rule.
- This brief explains that, under the FFDCA, EPA may only leave a tolerance in place if the Agency concludes that aggregate exposure to a pesticide chemical residue is “safe.”
- Continuing registration review of chlorpyrifos for remaining non-food uses.
- EPA is continuing to review the comments submitted on the chlorpyrifos proposed interim decision, draft revised human health risk assessment, and draft ecological risk assessment.
- After considering public comments, EPA will proceed with registration review for the remaining non-food uses, which may propose additional measures to reduce human health and ecological risks.
- These documents are available in the chlorpyrifos registration review docket EPA-HQ-OPP-2008-0850 at www.regulations.gov.
- Any state-specific information?
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OPs (include update and any state-specific information) - (include update and any state-specific information)

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Seed Treatments - (include update and any state-specific information)

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Cotaram in rice - (include update and any state-specific information)

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Paraquat - (include update and any state-specific information)

(Ed is meeting with some arial applicators and they will ask about the paraquat restrictions and our rationale)

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